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1 any time, just let me know, and I will try to remember to
2 speak up.

3 Generally, the nature of working in the building
4 envelope construction industry is you are not called out
5 to buildings that don't show some signs or issues. So I
6 would say all had some indications of water damage.

7 Q (By Mr. Derrig) Are you aware of any set of atmospheric
8 conditions that causes no damage whatsoever to any part
9 of a building?

10 MR. HOUSER: Objection; vague,
11 compound.

12 Q (By Mr. Derrig) It doesn't matter how minute the damage
13 is, no damage whatsoever.

14 **A I'm just -- I'm sorry. Can you repeat the question?**

15 Q Are you aware of any set of atmospheric conditions that
16 causes no damage, however minute, to a building?

17 MR. HOUSER: Objection; vague,
18 compound, incomplete hypothetical.

19 Q (By Mr. Derrig) If that's too abstract for you, I can
20 make it concrete.

21 **A Okay. Please, if you could.**

22 Q Well, I'm thinking that, you know, even on a nice, sunny
23 75-degree day, you could still have UV exposure to
24 roofing materials that would cause some degradation or
25 that could promote -- the warmth could promote the growth

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1 of fungus, things like that.

2 So what I'm wondering, having giving you that
3 example, what I'm wondering is is there some set of
4 atmospheric conditions where nothing happens to the
5 building, it has no effect whatsoever, detrimental effect
6 whatsoever on a building?

7 MR. HOUSER: Objection; lacks
8 foundation, vague, compound.

9 Q (By Mr. Derrig) Are you aware of any set of atmospheric
10 conditions?

11 MR. HOUSER: Incomplete hypothetical.

12 THE WITNESS: No, no.

13 Q (By Mr. Derrig) Of the 10 or so buildings that you've
14 inspected that were similar to -- and I recognize that's
15 an approximation -- Eagle Harbour, do you recall the
16 names of any of the others?

17 A I don't specifically recall the names.

18 Q And to make sure we're talking about the same thing, I
19 guess I said that, you know, the same age and
20 construction. What did that mean to you? I guess the
21 age is self-explanatory. But I'm wondering what -- I
22 said similar construction. What did that mean to you?

23 A So I interpreted that to mean stucco clad, exterior
24 stucco clad, things of that --

25 Q Wood framing?

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1 **A** The length varied. This one, the actual content of the
2 report is 32 pages. That's not that unusual. And it
3 includes just sort of a summary of each of the test cuts,
4 and then a good portion of the data is actually the
5 weather data for the -- that we accumulated for the site.

6 **Q** Where did you get the weather data from?

7 **A** Zephyr Delahunt. That's one of the pieces that Zephyr
8 Delahunt assembled. I believe what he told me is he got
9 it from the NOAA weather site, but I would have to be --
10 I would have to check to make sure.

11 **Q** Do you recall preparing any other reports where you
12 appended weather data like this to the report?

13 **A** I personally don't recall.

14 **Q** Why did you append weather data to this report?

15 **A** I believe that was suggested by Ken Strauss to support --
16 well, to indicate the general weather conditions at the
17 site.

18 **Q** Do you recall having any conversations with Mr. Strauss
19 about the scope or content of the report?

20 **A** I recall having conversations with him about the report.
21 I don't recall a specific.

22 **Q** Do you have any recollection of the content of any of
23 these conversations with Mr. Strauss about the report?

24 **A** I don't recall the specific content of the conversations.

25 **Q** Well, there's specific content, and there's content. So

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1 I'm wondering if you have any recollection of any content
2 whatsoever other than you know there was a conversation
3 and the report was being talked about.

4 **A I recall him requesting that we include the weather data.**
5 **And I guess I recall -- I guess that's really all I**
6 **recall.**

7 Q Do you recall --

8 **A Sorry. Go ahead.**

9 Q No, I'm sorry. Please complete your question --

10 **A No --**

11 Q -- or your answer.

12 **A -- that's my answer.**

13 Q Do you recall him requesting any references to -- in the
14 report to weather conditions or wind-driven rain?

15 MR. HOUSER: And I'm going to instruct
16 you not to answer any questions about drafting of the
17 report, any communications you had with Mr. Strauss about
18 drafting of the report, because you were an expert
19 witness at the time, and it's my understanding that under
20 Rule 26, communications about drafting of expert reports
21 are not discoverable.

22 MR. DERRIG: This is like the opposite
23 of -- so now he's a litigation expert?

24 MR. HOUSER: No, he's not. But at the
25 time when he wrote his report, he was -- had been

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1 Q Do you have any reason to believe that the presence of
2 widespread moisture intrusion at the Phase I building was
3 a recent phenomena?

4 MR. HOUSER: Objection; vague.

5 THE WITNESS: I don't have any reason
6 to believe it was a recent one, no.

7 Q (By Mr. Derrig) Do you have any reason to believe that
8 the moisture intrusion -- or excuse me -- that widespread
9 moisture intrusion at the Phase I building was a
10 long-term phenomena?

11 MR. HOUSER: Objection; vague, lacks
12 foundation.

13 THE WITNESS: I believe in this, we
14 state that we thought that moisture intrusion had been
15 going on for a prolonged period of time. We were no more
16 specific than that in our analysis. And we based that on
17 the level of degradation of some of the materials that we
18 found in the test sites.

19 Q (By Mr. Derrig) So in BET&R's opinion, the damage could
20 be qualified as gradual impairment to the structure?

21 MR. HOUSER: Objection; vague, lacks
22 foundation.

23 THE WITNESS: Again, I'm not qualified
24 to comment as to structural impairment. But if you are
25 -- sorry. Go ahead.

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1 Q (By Mr. Derrig) I wasn't limiting it to structural
2 impairment. So, you know, the stuff you are talking
3 about here, moisture-related damage, deconsolidation, you
4 know, decay, that sort of thing, would you classify that
5 as gradual impairment to the building?

6 MR. HOUSER: Objection; vague.

7 THE WITNESS: I don't know what the
8 term "gradual impairment" means. Does that mean that it
9 occurred over some period of time?

10 Q (By Mr. Derrig) Yes.

11 A **Yes. I would say it occurred over some period of time --**
12 **some extended period of time.**

13 Q Do you have any opinion as to whether that period of time
14 goes all the way back to 1979?

15 A **I was not asked to analyze that, and I never formed an**
16 **opinion about that.**

17 Q Do you have any opinion as to whether that period of time
18 extends back to September, 1997, through September, 1998?

19 A **Again, I wasn't asked to analyze that, and I don't have**
20 **an opinion about it.**

21 MR. DERRIG: I think we're at 11:45.
22 Do you want to break for lunch and then get back to it?

23 MR. HOUSER: Sure.

24 (Recess from 11:43 to 12:40.)

25 ///

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1 Q So rainwater wouldn't reach the vertical surfaces without
2 some sort of horizontal component being imparted to the
3 rain?

4 **A Correct.**

5 Q But the rain would still reach horizontal surfaces that
6 weren't covered, correct?

7 MR. HOUSER: Objection; lacks
8 foundation.

9 Q (By Mr. Derrig) For instance, the surface of a deck?

10 **A I guess you would have to ask me more specifically about**
11 **specific decks. I don't know -- I mean, so that question**
12 **assumes that there's no overhang or other -- so should I**
13 **assume in this scenario that there's no overhang and**
14 **nothing else protecting the deck? Is that -- I guess is**
15 **that the question?**

16 Q Yes, an uncovered horizontal surface will be impacted by
17 rainwater without -- a wind component is not necessary
18 for that surface to be impacted by rainwater, correct?

19 **A Yes, I -- well, can you define -- I guess can you define**
20 **impacted? Are you just saying water reaching that**
21 **surface or are you saying --**

22 Q Yes --

23 **A -- damage occurring at that surface?**

24 Q A fair question.

25 I just meant rain will hit a horizontal -- an

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1 unprotected horizontal surface even in the absence of
2 wind, correct?

3 MR. HOUSER: Objection; lacks
4 foundation and incomplete hypothetical.

5 THE WITNESS: If I understand your
6 question correctly, yes.

7 Q (By Mr. Derrig) Would you agree that wind-driven rain is
8 a typical component of the Pacific Northwest climate?

9 MR. HOUSER: Objection; vague, lacks
10 foundation.

11 THE WITNESS: Based on our -- the
12 weather data we create -- we -- sorry. Based on the
13 weather data that we accumulated or researched, I would
14 say yes, it's a fairly typical condition.

15 Q (By Mr. Derrig) Well, you can also base that on your 45
16 years of growing up in the Pacific Northwest, can't you?

17 A I would say yes.

18 Q Okay.

19 A Based on that as well.

20 Q Okay. Some of these questions are softballs. Okay?
21 Knock them out of the park.

22 In the next sentence under the Summary of Findings,
23 you say that, "At five locations paper-faced gypsum
24 exterior sheathing was significantly deconsolidated as a
25 result of repeated wetting and drying."

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1 THE WITNESS: In this particular case,
2 I don't recall if we had a conversation about whether it
3 was still able to perform its intended function.

4 Q (By Mr. Derrig) I'm not sure that answered my question.

5 Does the March 15 report with respect to
6 deconsolidation of gypsum exterior sheathing, is it
7 making an assessment of the ability of that sheathing to
8 accomplish its intended purpose at the building?

9 A No.

10 Q Okay. Going back to that same sentence, you state, "It
11 was deconsolidated as a result of repeated wetting and
12 drying." What about the deconsolidation or -- how were
13 you able to reach the conclusion that the deconsolidation
14 was a result of repeated wetting and drying?

15 A As I recall, sort of drawing on our experience and the
16 degree of deconsolidation, in other words, the thickness
17 of the gypsum and the tactile softness of the gypsum, we
18 were comfortable making some assessment as to it having
19 had to have happened repeated times.

20 Going back to your hypothetical of the wood, one
21 time is not going to do much damage. But repeated
22 wetting over time and when materials hold moisture for a
23 long period of time, they tend to deconsolidate. In this
24 case, in the case of gypsum, it will tend to swell and
25 deconsolidate more as time goes on.

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1 Q Okay. So you were confident this wasn't just the result
2 of some single storm passing through and a one-time
3 unusual experience?

4 **A That's certainly the conclusion I reached when I wrote**
5 **the report.**

6 Q And is it fair to say that you, based on the information
7 that you have, that you can't offer an opinion as to how
8 often -- you can't count the number of times it was wet
9 -- the gypsum was wetted and then dried?

10 **A That's correct, I can't.**

11 Q Okay. Going on at the summary of findings, you say, "At
12 the remaining two locations opened, oriented strand board
13 (OSB) sheathing present at the test openings showed
14 similar extensive moisture-related damage, including
15 deconsolidation and visible fungal growth (VFG)."

16 What's the deconsolidation mechanism for oriented
17 strand board? How does that relate to moisture damage?

18 **A So, again, just to reiterate, I'm not a wood scientist.**
19 **I'm not a wood science expert.**

20 Q Right.

21 **A So this is my best understanding. So the way that -- as**
22 **I understand, the way that oriented strand board is**
23 **created, it's more absorbent than, say, plywood or -- and**
24 **so it tends to swell and deconsolidate to a greater**
25 **degree than those do. And it's a good indication -- so**

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1 it's a good indication when there's moisture intrusion.
2 It tends to show moisture intrusion in a very dramatic
3 way. I'm sorry. Did that answer your question?
4 Q Sure. It helps.
5 A Okay.
6 Q Are we looking at -- you say it was similar extensive
7 moisture-related damage. I'm wondering is this another
8 situation similar to the paper-faced gypsum where it
9 would have been repeated wetting and drying?
10 A Yeah, I think that's -- I think that was the intent of
11 that sentence, yes.
12 Q Okay. So actually for the drying part, there's another
13 climatological condition that's at play here, and that is
14 temperature, correct?
15 A Yeah, I suppose so.
16 Q It warms up and the water --
17 A It warms up and the water dries out to some degree, yeah.
18 Q Okay. And you also mentioned visible fungal growth.
19 First, you are not a wood decay expert, correct?
20 A Correct.
21 Q And you are not -- what is the name?
22 MR. HOUSER: An industrial hygienist?
23 MR. DERRIG: No, no, no.
24 Q (By Mr. Derrig) A mycologist?
25 A Correct.

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1 understand you are still under oath?

2 **A I do.**

3 Q Can you identify any damage at Phase I or Phase II that
4 is associated with a specific weather event? In other
5 words --

6 **A Not that I can -- a specific weather event? I can't**
7 **recall any instance of damage that would have been**
8 **associated with a specific -- one specific weather event.**

9 MR. DERRIG: Okay. Thank you.

10

11 EXAMINATION

12 BY MR. GAWLOWSKI:

13 Q Mr. McIntosh, my name is Rich Gawlowski. I represent
14 Allstate. We met a few weeks ago.

15 **A We did.**

16 Q I'll be brief.

17 First of all, with respect to Phase I and Phase II,
18 are you able to determine when any physical damage you
19 saw at any location at Phase I or Phase II occurred?

20 MR. HOUSER: Objection; vague,
21 compound, lacks foundation.

22 Q (By Mr. Gawlowski) Do you understand what I mean by that
23 question?

24 **A Can you repeat it?**

25 Q Yes. It's real simple. There's been testimony today

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1 where you've testified at length about physical damage in
2 different locations, correct?

3 **A Correct.**

4 Q All right. Are you able to identify when the physical
5 damage at any location at either Phase I or Phase II
6 occurred?

7 MR. HOUSER: Objection; vague,
8 compound, lacks foundation.

9 THE WITNESS: I have not been asked to
10 make that determination professionally, and I don't have
11 the information at this point to make that determination.

12 Q (By Mr. Gawlowski) When you were out there in 2004 and
13 observed any physical damage you observed at that time,
14 do you know or are you able to say when that occurred?

15 MR. HOUSER: Object to the
16 mischaracterization, lacks foundation.

17 THE WITNESS: Not specifically.

18 Q (By Mr. Gawlowski) The same thing with regard to any
19 physical damage that was observed beginning in 2004 -- or
20 in the 2004 timeframe -- strike that. Let me go back.

21 I meant to ask 2004, 2006 or '07 timeframe, any
22 physical damage you observed, you are not able to tell
23 when that occurred; is that a fair statement?

24 MR. HOUSER: Objection;
25 mischaracterization, vague, compound, lacks foundation.